

Appl. No. : 09/913,799  
Filed : December 31, 2001

### **REMARKS**

Claim 1 has been amended by incorporating the limitations of Claims 3, 5 and 7 which have been canceled without prejudice. Claim 14 has been amended by incorporating the limitations of Claims 18 and 20 which have been canceled without prejudice. Claims 6, 8, 19 and 21 have been amended to change the dependencies. Accordingly, Claims 1, 6, 8-16, 19, 21 and 22 are pending in this application. As such, neither new matter nor new issue has been raised. Applicant respectfully requests entry of the amendments and reconsideration of the application in view of the amendments and the following remarks.

#### **Rejection of Claims 1, 3, 5-16 and 18-22 Under 35 U.S.C. § 103**

Claims 1, 3, 5-16 and 18-22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Shibata Teruhiko JP 60-255729 in combination with Iwata, Sommerville et al. and Kunzler (WO 96/29890). Applicant respectfully traverses the rejection. Claims 1 and 14 have been amended. Claims 3, 5, 7, 18 and 20 have been canceled. Claims 1 and 14 are independent and the remaining claims are dependent ultimately on either Claim 1 or 14. The claims could not be obvious over the references as explained below.

Claim 1 now recites: A drink, which comprises desalted seawater to which water-soluble mineral components are added, wherein said water-soluble mineral components are magnesium and calcium obtained from seawater, the weight ratio of magnesium to calcium (Mg/Ca) being adjusted to 4/1 to 1/3, said drink having a hardness of water of 100 to 3,000 as measured by the EDTA method.

Claim 14 now recites: a method for producing a drink, comprising the steps of: i) collecting seawater; ii) separating the seawater into water and a concentrate by desalting; and iii) adding to said separated water water-soluble mineral components obtained from said concentrate or another seawater concentrate, wherein said mineral components are magnesium and calcium, said magnesium and calcium are added to adjust the weight ratio of magnesium to calcium (Mg/Ca) to 4/1 to 1/3, and said desalination is conducted to adjust a hardness of water to 100 to 3,000 as measured by the EDTA method.

Appl. No. : 09/913,799  
Filed : December 31, 2001

In contrast, none of the references teaches or even suggests that the magnesium and calcium to be added to desalted seawater are obtained from seawater, the weight ratio of magnesium to calcium (Mg/Ca) is adjusted to 4/1 to 1/3, and the drink has a hardness of water of 100 to 3,000 as measured by the EDTA method.

The Examiner has asserted that Kunzler (WO 96/29890) teaches adding salts such as calcium and magnesium to tap water to enrich the tap water or a beverage with calcium and magnesium in amounts found in natural mineral waters.

Not only the Examiner but also one of ordinary skill in the art would think that mineral-adjusted seawater is not different from mineral-enriched tap water. HOWEVER, surprisingly, mineral-adjusted seawater is significantly superior to mineral-enriched tap water in terms of physiological effects such as a blood stream in the body and cholesterol levels.

The declaration accompanying this Amendment shows that a mineral-adjusted drink using the seawater which is prepared in accordance with the claimed invention exhibits totally surprising effects on the body as compared with tap water enriched with Mg, Ca, Na, and K using food additives and chemical reagents, despite the fact that the mineral contents and the hardness are the same. The results show that the mineral-adjusted seawater of the claimed invention has a significant effect on a blood stream in the body as compared with the mineral-enriched tap water which is equivalent to the invention of Kunzler (see ¶5, the table).

Additionally, the mineral-adjusted seawater exhibits surprising effect on total cholesterol and LDL-Ch. Such effect by mineral-enriched tap water has never been reported (see ¶7).

One having ordinary skill in the art would not have expected the above surprising results by employing the materials or processes of the claimed invention. Therefore, the claimed invention could not be obvious over the prior art. Thus, Claims 1 and 14 and the dependent claims could not be obvious over the references. It is respectfully submitted that the rejection should be withdrawn.

### **CONCLUSION**

In light of the Applicant's amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the

**Appl. No.** : 09/913,799  
**Filed** : December 31, 2001

application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: May 21, 2004

By:



Katsuhiro Arai

Registration No. 43,315

Agent of Record

Customer No. 20,995

(949) 760-0404

H:\DOCS\TOS\KOD65B.001APC\KOD65B.001APC.AMEND2.DOC  
052004